

(5)

Charles J. Kring et al.
Application No.: 10/057,827
Page 1

Official**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Charles J. Kring et al.

Application No.: 10/057,827

Filed: January 25, 2002

For: A METHOD AND SYSTEM FOR
POLICY BASED MANAGEMENT OF
MESSAGES FOR MOBILE DATA
NETWORKS

Examiner: Not Yet Assigned

Art Unit: 2152

PETITION UNDER 37 CFR. §1.47(a)
NONSIGNING INVENTOR

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED

NOV 08 2002

OFFICE OF PETITIONS

Sir:

Applicants Charles J. Kring, Manthi Nguyen, and Cimarron D. Taylor hereby petition under 37 CFR. §1.47(a) to make application on behalf of themselves and on behalf of the nonsigning inventor Gregory H. Barrault whose signed declaration for the above referenced application has not yet been received by this time. Gregory H. Barrault is the non-signing inventor. Under this petition, Applicants have met the requirements of 37 CFR. §1.47(a) based upon MPEP 409.03(a) to grant this petition.

MPEP 409.03(a) includes Part (A), Part (B), and Part (C). To meet Part (A), Applicants Kring, Nguyen, and Taylor have made oath or declaration on their own behalf (Appendix A for Kring, Appendix B for Nguyen, and Appendix C for Taylor). Applicants Kring, Nguyen, and Taylor further request that the oath or declaration signed by all the available joint inventors (Kring, Nguyen, and Taylor) with the signature block of the nonsigning inventor (Barrault) left blank or signed by all the available joint inventors (Kring, Nguyen, and Taylor) be treated as having been signed by all the

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available joint inventors on behalf of the nonsigning inventor. (See also, Appendix A for Kring, Appendix B for Nguyen, and Appendix C for Taylor).

Additionally, MPEP 409.03(a) Parts (B) and (C) correspond to MPEP 409.03(d) and (e) respectively. Under MPEP 409.03(d), Applicants have provided an Declaration of Charles J. Kring averring that the declaration signed by inventor Gregory H. Barrault has not been received after a diligent effort (Appendix D). Pursuant to MPEP 409.03(e), Applicants state that the last known address of Gregory H. Barrault is 32 rue du Tir, bat D, 78600 Maisons-Laffitte, France. Accordingly, MPEP 409.03(a) has been met.

Applicants also submit that other sections of MPEP 409.03 have been met. Under MPEP 409.03(g), Applicants submit that the instant filing date is necessary to preserve the rights associated with the above referenced application. Applicants further submit herewith an Application Data Sheet (Appendix E), which has certain corrections in it.

The Commissioner is authorized to deduct the following from the undersigned's Deposit Account No. 20-1430:

1. Declaration surcharge fee of \$65.00 pursuant to 37 C.F.R. 1.16(e); and
2. Nonsigning inventor petition fee of \$130.00 pursuant to 37 C.F.R. §1.17(h) under 37 C.F.R. §1.47(a).

Please deduct any additional fees from, or credit overpayment to, this same deposit account.

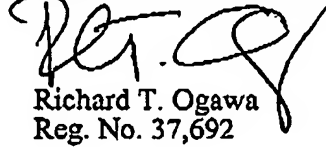
In view of the foregoing, Applicants submit that the conditions set forth by 37 C.F.R. §1.47(a) have been fully satisfied, and therefore Charles J. Kring, Manthi Nguyen, and Cimarron D. Taylor are entitled to make application on behalf of themselves and on behalf of the nonsigning inventor, Gregory H. Barrault. Grant of this Petition is respectfully requested.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Richard T. Ogawa
Reg. No. 37,692

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
NSC
PA 3244584 v1

AUG. 20. 2002 5:52PM

TOWNSEND&TOWNSEND

NO. 594

P. 8/25

APPENDIX A
U.S. SERIAL NO. 10/057,827
Charles J. Kring et al.

Attorney Docket No.: 020995-000110US
Client Ref. No.: PF001-01

PTO/SB/01A (10-00)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
- ☒ Application No. 10/057,827 filed on January 25, 2002
- ☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)Inventor 1 Charles J. King Date: 8/19/02Signature: [Signature] Citizen of: United StatesInventor 2 Manthi Nguyen Date: _____Signature: _____ Citizen of: United StatesInventor 3 Cimarron Taylor Date: _____Signature: _____ Citizen of: United StatesInventor 4 Gregory H. Barrault Date: _____Signature: For Gregory H. Barrault [Signature] Citizen of: United States☐ Additional inventors are being named on form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231, PA 3211543 v1

APPENDIX B
U.S. SERIAL NO. 10/057,827
Charles J. Kring et al.

Attorney Docket No.: 020595-000110US
Client Ref. No.: PF001-01

PTO/SBA/1A (10-00)

Approved for use through 10/31/2002, OMB 0501-0002
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
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**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
☒ Application No. 10/057,827 filed on January 25, 2002
☐ as amended on _____ (if applicable):

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1 Charles J. King Date: _____

Signature: _____ Citizen of: United States

Inventor 2 Martha Nguyen Date: _____

Signature: _____ Citizen of: United States

Inventor 3 Cinnamon Taylor Date: _____

Signature: _____ Citizen of: United States

Inventor 4 Gregory H. Barrault Date: _____

Signature: _____ Citizen of: United States

☐ Additional inventors are being named on form(s) attached hereto.

WARNING: Your Statement This collection of information is required by 30 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to the (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is required to take 1 minute to complete. This time will vary depending upon the needs of the individual user. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.
PA 3211043 v1



APPENDIX C
U.S. SERIAL NO. 10/057,827
Charles J. Kring et al.

Attorney Docket No.: 020995-000110US
Client Ref. No.: PF001-01

PTO/SB/DIA (10-00)

Approved for use through 10/31/2002, OMB 0581-0002

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
☒ Application No. 10/057,827 filed on January 25, 2002
☐ as amended on _____ (if applicable);

I/we believe that I/we are/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1 Charles J. King Date: _____

Signature: _____ Citizen of: United States

Inventor 2 Martha Nguyen Date: _____

Signature: _____ Citizen of: United States

Inventor 3 Cimarron Taylor Date: 8/18/2002

Signature: C. D. Taylor Citizen of: United States

Inventor 4 Gregory M. Barnhill Date: _____

Signature: _____ Citizen of: United States

☐ Additional inventors are being named on form(s) attached hereto.

Briefing Note Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. PA 32115-01 v1

APPENDIX D
U.S. SERIAL NO. 10/057,827
Charles J. Kring et al.

Attorney Docket No.: 020995-000110US
 Client Ref. No.: PFD01-01

PTO/SB01A (10-00)

Approved for use through 10/31/2002. OMB 0651-0032
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
☒ Application No. 10/057,827 filed on January 25, 2002
☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1	<u>Charles J. King</u>	Date:	_____
Signature:	_____	Citizen of:	<u>United States</u>
Inventor 2	<u>Manh Nguyen</u>	Date:	_____
Signature:	_____	Citizen of:	<u>United States</u>
Inventor 3	<u>Cinnamon Taylor</u>	Date:	_____
Signature:	_____	Citizen of:	<u>United States</u>
Inventor 4	<u>Gregory H. Bernault</u>	Date:	<u>8/20/2002</u>
Signature:	<u>FOR HAROLD BARRALL, Cinnamon Taylor</u>	Citizen of:	<u>United States</u>

☐ Additional inventors are being named on form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the PTO to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time may vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FILL OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patent, Washington, DC 20231.
 PA 3211643 v1

APPENDIX E
U.S. SERIAL NO. 10/057,827
Charles J. Kring et al.

Attorney Docket No.: 020995-000110US
Client Ref. No.: PF001-01

PTO/ERR 01A (10-00)

Approved for use through 10/31/2002, OMB 0551-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
☒ Application No. 10/057,927 filed on January 25, 2002
☐ as amended on _____ (if applicable):

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought.

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT international filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1 Charles J. Kring Date: _____

Signature: _____ Citizen of: United States

Inventor 2 Manh Nguyen Date: _____

Signature: _____ Citizen of: United States

Inventor 3 Cameron Taylor Date: _____

Signature: _____ Citizen of: United States

Inventor 4 Gregory M. Barrault Date: _____

Signature: MANH NGUYEN FOR I-AN NGUYEN Citizen of: United States

☐ Additional inventors are being named on form(s) attached hereto.

Speedy Mail Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the PTO to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.
PA 3211543 v1

PATENT
Attorney Docket No.: 020995-000110US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHARLES J. KRING et al.

Application No.: 10/057,827

Filing Date: January 25, 2002

For: A METHOD AND SYSTEM FOR
POLICY BASED MANAGEMENT
OF MESSAGES FOR MOBILE
DATA NETWORKS

Examiner: Unknown

Art Unit: Unknown

DECLARATION OF FACTS RELATING TO
NONSIGNING INVENTOR UNDER
37 CFR 1.47(a), MPEP 409.03(d)

Attn: Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED

NOV 08 2002

OFFICE OF PETITIONS

Sir:

I, Charles J. Kring, declare as follows:

I hereby declare certain facts surrounding the signing of formal documents, including a declaration, by Gregory H. Barrault, a non-signing inventor at this time for U.S. Application Serial No. 10/057,827.

I am a co-inventor of the above referenced application U.S. Application Serial Number 10/057,827 filed January 25, 2002 (the '827 application), which claims priority to U.S. Application Serial No. 09/847,520 filed May 1, 2001 (the '520 application). I am also Chief Technology Officer of Profluent, Inc. ("Profluent"), owner of the above referenced patent application. The named inventors of the subject application include Charles J. Kring, Manthi Nguyen, Cimarron D. Taylor, and Gregory H. Barrault, all of which have been employees of Profluent.

At least the following steps have been taken to obtain Mr. Barrault's signature:

- In January 2002, I sent a copy of the '520 application and a declaration for such application for signature to Mr. Gregory H. Barrault at his home address (32 rue du

Charles J. Kring, et al.
Serial No. 10/057,827
Page 2

Tir, bat D, 78600 Maisons-Laffitte -- France, +33.1.39.62.95.80). The documents were sent by US post.

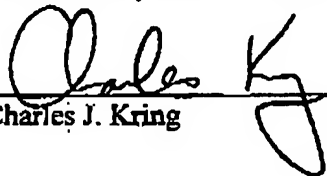
- In January 2002, I understood that the Mr. Gregory H. Barrault had signed and returned the declaration to Profluent.
- In January 2002, Profluent had a significant reduction in force. On that date, I was contacted by Mr. Richard T. Ogawa, attorney of record, to follow up on the signed declaration by Mr. Gregory H. Barrault and the other inventors. At that time, I understood that the signed declaration had been placed in an internal file at Profluent, which was located at 2025 Gateway Place, Suite 260, San Jose, California, 95110. Since Mr. Ogawa did not have the signed declaration, I instructed Mr. Ogawa to re-file the '520 application as a continuation application, which is the above referenced subject application-the '827 application.
- In February, 2002, Profluent moved out of its previous premises at 2025 Gateway Place, Suite 260, San Jose, California. The internal file was archived at Safe Place Storage, San Jose, CA. At that time, I believed that the signed declaration had been sent out to Mr. Richard T. Ogawa.
- On July 19, 2002, I received notification from Mr. Richard T. Ogawa that the signed declaration for Mr. Gregory H. Barrault and other inventors had not been received yet.
- On July 23, 2002, I called Mr. Gregory H. Barrault via telephone at his home in France and arranged a meeting on July 25, 2002 in Paris, so that Mr. Gregory H. Barrault could sign the declaration for the '827 application.
- On July 25, 2002, I had to cancel the meeting with Mr. Gregory H. Barrault.
- On August 7, 2002, I emailed the declaration to Mr. Gregory H. Barrault for his signature.
- On August 11, 2002, I received a notification that the email delivery had failed.
- On August 18, 2002, I again emailed the declaration to Mr. Gregory H. Barrault, asking him to fax back the signed declaration as soon as possible.

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Serial No. 10/057,827
Page 3

- On August 20, 2002, I received a reply that Mr. Gregory H. Barrault was on vacation and had no access to a FAX machine. In the reply, Mr. Gregory H. Barrault promised to fax the signed declaration on August 21, 2002.
- I understand that a Response to Missing Parts is due on Aug. 20, 2002, which is the extended date for such Response. Based upon such due date, I hereby provide this declaration to indicate that Mr. Gregory H. Barrault had not signed.
- Based upon at least the facts above, I hereby declare that I made diligent efforts to secure Mr. Barrault's signature for the declaration for the '827 application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this 20th day of August, 2002, Sunnyvale, California, United States.



Charles J. Kring

PA 3244611 v1